

### **REMARKS**

Reconsideration of this application and the allowance of the rejected claims 41-57, 62 and 64-66 are respectfully requested. Applicants have attempted to address every ground for rejection in the Office Action dated July 6, 2010 (Paper No. 20100630) and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

Claims 41, 49, 52-57, 62, 64 and 66 are rejected as being anticipated by U.S. Patent No. 4,289,717 to Bortz. Applicants disagree with and traverse this rejection for the following reasons.

Bortz discloses a method of making a cushioned bathroom article, such as a bathtub, that includes flexible cellular foam sandwiched between a rigid base "B" and a flexible polymeric skin "S" (see Col. 1, lines 6-12; Col. 2, lines 9-19 and 29-53). The rigid base "B" is made of polyester resin and reinforcing fibreglass formed in a two part mold resin injection process (Col. 3, lines 32-37). The flexible polymeric skin "S" is formed by spray coating a form 40 with a layer of vinyl material and then with a layer of polyurethane foam (Col. 4, line 66 to Col. 5, line 4; Col. 5, lines 32-34). The flexible polymeric skin "S" and the rigid base "B" are assembled to define a cavity into which a liquid foam material "F" is injected and expands to fill the cavity. The rigid base "B" is provided with vent apertures 39 to allow trapped air to escape when the cavity is filled with

expanding foam. In the finished product, the rigid base “B” provides the required degree of rigidity and strength for the finished tub while the flexible polymeric skin “S” and foam filler “F” sandwiched between the base and skin provide thermal and acoustic insulation as well as cushioning any fall by a person using the bath.

In contrast, amended claim 42 recites, among other things, a composite article including a shower tray having an upper surface and an underside. The shower tray includes “an upper member providing the upper surface of the shower tray and a lower member on the underside of the shower tray that together form an outer shell, said upper member being spaced from said lower member to define a cavity therebetween” and “an inner core of filler extending throughout said cavity between said upper member and said lower member to provide strength and rigidity to the shower tray . . . said inner core being sandwiched between said upper member and said lower member to support the upper surface of the shower tray so that it does not flex when stood on, and wherein said lower member is provided with a means for releasing air from said cavity on said underside of said shower tray.” Bortz fails to disclose such subject matter.

Specifically, the base “B” (lower member) and skin “S” (upper member) in Bortz are not formed from plastics sheet material. On the contrary, the skin (upper member) is formed by spray coating a mixture of vinyl polymer

and methyl ethyl ketone onto a form 40 and the base (lower member) is formed by injection molding with polyester resin and fibreglass. Bortz does not disclose using any type of plastic sheet material for form the base or the skin.

Additionally, the foam filler "F" in Bortz does not impart strength and rigidity to the bathtub. Instead, both the foam filler and the skin are described as being "flexible" to provide the bathtub with improved thermal and acoustic insulation as well as cushioning in case a person should fall or slip in the bathtub (Col. 1, lines 21-29). The strength and rigidity of the Bortz bathtub is provided by the reinforced polyester resin base "B" on the underside of the bathtub (Col. 3, lines 27-31, ". . . the base provides a desired degree of rigidity and strength..."). Contrary to the Examiner's contention, Bortz does not disclose that its core (foam filler "F") provides rigidity and strength to the bathtub.

In contrast, the claimed invention includes a resin filler that provides a core sandwiched between the upper and lower members made of plastic sheet material where the core provides strength and rigidity to the finished product. The plastics sheet material used for the upper and lower members essentially provide skins to cover the outer surface of the core and would not, by themselves, possess sufficient strength and rigidity to support a person standing on the members without deforming.

For all of the above reasons, Applicants submit that claim 41, and the claims that depend therefrom, are each patentably distinguished over Bortz and in condition for allowance.

Amended claim 62 includes similar subject matter to claim 41. Specifically, amended claim 62 recites, among other things, a shower tray having “an upper surface and an underside, said shower tray comprising an upper member forming said upper surface of said shower tray, a lower member forming said underside of said shower tray, and a core of filler, said upper and lower members being vacuum formed from plastics sheet material” where “said core of filler is sandwiched between said upper and lower members whereby said core of filler extends below said floor between said upper surface and said underside of said shower tray and provides strength and rigidity to said shower tray.” As stated above, Bortz fails to disclose such subject matter.

Furthermore, amended claim 62 recites, among other things, that the upper and lower members are “vacuum” formed from plastics sheet material. In contrast, Bortz includes a spray coated skin and an injection molded base. Bortz does not disclose utilizing a vacuum forming process or any similar process for manufacturing its skin and base.

Accordingly, Applicant submits that amended claim 62 is patentably distinguished over Bortz and in condition for allowance.

Amended claim 64 includes similar subject matter to claim 41. Specifically, amended claim 64 recites, among other things, a shower tray having “an upper surface and an underside, said shower tray comprising a floor and inner walls defining a well in said upper surface” where the shower tray includes “an upper member formed from plastics sheet material, a lower member formed from plastics sheet material, and a core of filler sandwiched between said upper and lower members” and where “said core extends throughout a cavity defined between said upper and lower members in the region of said outer side wall, upper wall and well such that said core provides strength and rigidity to said shower tray.” As stated above, Bortz fails to disclose such subject matter.

Furthermore, amended claim 64 specifically recites that “said outer side wall extending from said upper surface of the shower tray to provide a flat surface around a base of the shower tray.” The bathtub in Bortz, on the other hand, has an outwardly directed flange at its upper surface that extends around the top periphery of the bath and does not extend downward to provide a flat surface around the base of the bath.

Accordingly, Applicant submits that amended claim 64 is patentably distinguished over Bortz and in condition for allowance.

Claims 42 and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Bortz and U.S. Publication No. 2004/0126557 to Thiele et al. Thiele is cited as teaching a shower tray core made

of a resin-stone mix. Claims 42 and 45 depend from claim 41. Theile does not remedy the deficiencies of Bortz discussed above. Accordingly, Applicants submit that claims 42 and 45 are each patentably distinguished over the combination of Bortz and Theile and in condition for allowance.

Claim 43 is rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Bortz, Thiele and U.S. Patent No. 4,414,385 to Swanson. Swanson is cited as teaching a resin-stone mix having a mixture of limestone, calcium carbonate and a catalyst of dicyclopentadiene. Claim 43 depends from claim 41. Neither Theile nor Swanson remedy the deficiencies of Bortz discussed above. Accordingly, Applicants submit that claim 43 is patentably distinguished over the combination of Bortz, Theile and Swanson and in condition for allowance.

Claims 44-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Bortz and U.S. Publication No. 2003/0008164 to Klepsch. Klepsch is cited as teaching a shower tray having an upper member made with a scratch resistant material including the constituents disclosed by claims 45-48. Claims 44-48 depend from claim 41. Klepsch does not remedy the deficiencies of Bortz discussed above. Accordingly, Applicants submit that claims 44-48 are each patentably distinguished over the combination of Bortz and Klepsch and in condition for allowance.

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Claims 50-51 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Bortz and German Patent No. DE 3423008 to Buhr. Buhr is cited as teaching a shower tray having a lower member with sockets and legs that fit into the sockets for adjusting the height of the tray. Claims 50-51 depend from claim 41. Buhr does not remedy the deficiencies of Bortz discussed above. Accordingly, Applicants submit that claims 50-51 are each patentably distinguished over the combination of Bortz and Buhr and in condition for allowance.

In view of the above remarks, the application is respectfully submitted to be in allowable form. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

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